TAXATION—LEGACY TO CHARITABLE INSTITUTION.—In *Crook* v. *Wells, et al., Comr's*, the Court of Appeals of New York holds that a legacy given to a charitable institution, whose property is exempt from taxation, is not taxable while still in the hands of the executor. Although he may hold the property for one year, yet, with respect to taxation, it is to be considered the property of the legatee during that time.—*New York Law Journal, Oct. 28, 1904.*

LIBEL—UNJUSTIFIABLE CRITICISM.—In *Oscar L. Triggs* v. *The Sun Printing and Publishing Company*, decided Aug. 5, 1904, the New York Court of Appeals decided that where a newspaper publication ridicules the private life of an author, and represents him as a presumptuous literary freak, and is manifestly an attack upon his reputation or business, it is libelous *per se* and can not be justified on the ground that it is a jest.

The following quotation will give a fair idea of the character of the articles claimed to be libelous:

"If these plays are to be put upon the stage they must be rewritten, and Prof. Triggs is the destined rewriter, amender and reviser. The sapless, old-fashioned rhetoric must be cut down. The fresh and natural contemporary tongue, pure Triggsian, must be substituted. For example, who can read with patience these tinsel lines? 'Madam, an hour before the worshipped sun peered forth the golden window of the east, a troubled mind drave me to walk abroad.' This must be translated into Triggsian (meaning the literary style of writing of the plaintiff) somewhat like this: 'Say, lady, an hour before sunup I was feeling wormy, and took a walk around the block.' Here is more Shakespearian rubbish:

> "'O, she doth teach the torches to burn bright!
> Her beauty hangs upon the cheek of night,
> As a rich jewel in an Ethiop's ear.'

How much more forcible in clear, concise Triggsian: 'Say, she's a peach! A bird! Hear 'Pop' Capulet drivel: 'Go to, go to. You are a saucy boy!' In the Oscar dialect, this is this: 'Come off, kid. You're too fresh.' Compare the dropsical hifalutin:

> "'Night's candles are burnt out, and jocund day
> Stands tiptoe on the misty mountain's tops,'

with the time-saving Triggsian version: 'I hear the milk-man.' The downfall of Shakespeare is only a matter of time, and Triggs. Carnegie ought to endow Triggs. Oscar Hammerstein ought to dramatize Triggs. Triggs is the hope, and soon will be the pride, of the stage."

DEPOSITIONS IN SUITS IN EQUITY—WHAT IS THE EARLIEST POSSIBLE TIME AT WHICH DEPOSITIONS MAY BE TAKEN?—SEC. 3359 OF THE CODE. Section 3359 of the Code provides: "In any pending case, the deposition of a witness, whether a party to the suit or not, may be taken in this State by a notary, etc." Mr. Barton, in 2 Bart. Ch. Practice (2d ed.), 785, says that the cause must be set for hearing before the depositions are taken, and the person to be affected by

them must be a party to the suit, but, in a foot-note, adds that there is no fixed rule in Virginia as to the time or order in which depositions are required to be taken to be read in a suit in chancery, and deplores the lack of such a rule. Sands Suit in Equity (2d ed.) 468, says that the section above quoted authorizes the taking of depositions in chief from the time of the institution of the suit, certainly from the time of the filing of the bill, even before the parties are at issue. In Hogg's Equity Procedure, sec. 479, it is said: "While it is settled on authority that a deposition may be taken after the bill has been filed (*Buster* v. *Holland*, 27 W. Va. 535), in view of a fact that a suit is pending upon the issuance of the summons (sec. 3223 of the Code), there does not seem to be any good reason why the deposition should not be properly taken after the issuance of the summons, and before the filing of the bill (*Mumford* v. *Church*, 1 Johns. Cas. 147, 1 Law Ed. 278). It has been decided that a deposition taken before an amended and supplemental bill has been filed, may be read in support of such bill (*Hatcher* v. *Crews*, 78 Va. 467)." By reference to 6 Encyc. of Pl. & Pr., 484-485, it will be seen that the decisions of the State courts are not harmonious as to the time when depositions may be taken under the various statutes. In the English Chancery, depositions could not be taken before the answer was filed. They might be taken *de bene esse* before answer, but these could not be read at the trial unless the cause for the taking continued. *Nave* v. *Nave*, 7 Ind. 123, citing 1 Harr Ch. Pr. 370.

In the recent case of *Anderson* v. *Anderson*, Judge Grinnan, of the Chancery Court of the City of Richmond, decided that depositions could be taken after the bill had been filed and *before* the case had been docketed. The terms of the statute seem to be broad enough to cover not only this case, but even to allow depositions to be taken at any time after the filing of memorandum, for a suit is then "pending." But such practice would be objectionable in the extreme, for the defendant would then have to hear and cross-examine the complainant's witnesses without being apprised of the allegations he is expected to meet.

C. B. G.

ATTACHMENTS—QUÆRE: MAY MOTION TO QUASH BE HEARD IN CASE OF ATTACHMENT FOR RENT?—SECTIONS 2981 AND 2962 OF CODE.—In the recent case of *Rose* v. *Snead*, in the Circuit Court of the city of Richmond, Judge Scott held that section 2981, providing for the abating of an attachment, when the court is of opinion that the attachment was issued on false suggestions, or without sufficient cause, was applicable in case of attachment for rent under section 2962. A history of the statutes on attachments is essential to the proper understanding of the question presented. Under 1 Revised Code, 1819, p. 448, sec. 9, which is now sec. 2962 of the Code, was in a separate chapter from the other provisions in regard to attachments, and the section allowing a defence to be made to attachments may be found in Revised Code 1819, p. 478, sec. 12, which corresponds to the present sec. 2981. In *Redford* v. *Winston*, 3 Rand. 148, decided in 1825, it was held that the defendant in the case of an attachment for rent could not plead that the attachment was issued on false suggestions, and that the aforesaid section 12, of 1 Revised Code 1819, p. 478, was not applicable as in other cases of attachments, but that the defendant was left to his action on the attachment bond. To cure